

§ 2920.8

43 CFR Ch. II (10–1–99 Edition)

§ 2920.8 Fees.

(a) *Rental.* (1) Holders of a land use authorization shall pay annually or otherwise as determined by the authorized officer, in advance, a rental as determined by the authorized officer. The rental shall be based either upon the fair market value of the rights authorized in the land use authorization or as determined by competitive bidding. In no case shall the rental be less than fair market value.

(2) Rental fees for leases and easements may be adjusted every 5 years or earlier, as determined by the authorized officer, to reflect current fair market value.

(3) The rental fees required by this section are payable when due, and a late charge of 1 percent per month of the unpaid amount or \$15 per month, whichever is greater, shall be assessed if subsequent billings are required. Failure to pay the rental fee in a timely manner is cause for termination of the land use authorization.

(b) *Processing fee.* Each request for renewal, transfer or assignment of a lease or easement shall be accompanied by a non-refundable processing fee of \$25. The authorized officer may waive or reduce this fee for requests for permit renewals which can be processed with a minimal amount of work.

§ 2920.9 Supervision of the land use authorization.

§ 2920.9–1 Construction phase.

(a) Unless otherwise stated in the land use authorization, construction may proceed immediately upon receipt and acceptance of the land use authorization by the selected applicant.

(b) Where an authorization to use public lands provides that no construction shall occur until specific permission to begin construction is granted, no construction shall occur until an appropriate Notice to Proceed has been issued by the authorized officer, following the submission and approval of required plans or documents.

(c) The authorized officer shall inspect and monitor construction as necessary, to assure compliance with approved plans and protection of the resources, the environment and the public health, safety and welfare.

(d) The holder of a land use authorization may be required to designate a field representative who can accept and act on guidance and instructions from the authorized officer.

(e) The holder of a land use authorization may be required to provide proof of construction to the approved plan and required standards. Thereafter, operation of the authorized facilities may begin.

§ 2920.9–2 Operation and maintenance.

The authorized officer shall inspect and monitor the operation and maintenance of the land use authorization area, its facilities and improvements to assure compliance with the plan of management and protection of the resources, the environment and the public health, safety and welfare, and the holder of the land use authorization shall take corrective action as required by the authorized officer.

§ 2920.9–3 Termination and suspension.

(a) Land use authorizations may be terminated under the following circumstances:

(1) If a land use authorization provides by its terms that it shall terminate on the occurrence of a fixed or agreed-upon event, the land use authorization shall thereupon automatically terminate by operation of law upon the occurrence of such event.

(2) Noncompliance with applicable law, regulations or terms and conditions of the land use authorization.

(3) Failure of the holder to use the land use authorization for the purpose for which it was authorized. Failure to construct or nonuse for any continuous 2-year period shall constitute a presumption of abandonment and termination.

(4) Mutual agreement that the land use authorization should be terminated.

(5) Nonpayment of rent for 2 consecutive months, following notice of payment due.

(6) So that the public lands covered by the permit can be disposed of or used for any other purpose.

(b)(1) Upon determination that there is noncompliance with the terms and conditions of a land use authorization

which adversely affects the public health, safety or welfare or the environment, the authorized officer shall issue an immediate temporary suspension.

(2) The authorized officer may give an immediate temporary suspension order orally or in writing at the site of the activity to the holder or a contractor or subcontractor of the holder, or to any representative, agent, employee or contractor of any of them, and the suspended activity shall cease at that time. As soon as practicable, the authorized officer shall confirm the order by a written notice to the holder addressed to the holder or the holder's designated agent. The authorized officer may also take such action considered necessary to require correction of such defects prior to an administrative proceeding.

(3) The authorized officer may order immediate temporary suspension of an activity regardless of any action that has been or is being taken by another Federal agency or a State agency.

(4) An order of temporary suspension of activities shall remain effective until the authorized officer issues an order permitting resumption of activities.

(5) Any time after an order of suspension has been issued, the holder may file with the authorized officer a request for permission to resume. The request shall be in writing and shall contain a statement of the facts supporting the request.

(6) The authorized officer may render an order to either grant or deny the request to resume within 5 working days of the date the request is filed. If the authorized officer does not render an order on the request within 5 working days, the request shall be considered denied, the holder shall have the same right to appeal the denial as if an order denying the request had been issued.

(c) Process for termination or suspension other than temporary immediate suspension.

(1) Prior to commencing any proceeding to suspend or terminate a land use authorization, the authorized officer shall give written notice to the holder of the legal grounds for such action and shall give the holder a reasonable time to correct any noncompliance.

(2) After due notice of termination or suspension to the holder of a land use authorization, if noncompliance still exists after a reasonable time, the authorized officer shall give written notice to the holder and refer the matter to the Office of Hearings and Appeals for a hearing before an Administrative Law Judge pursuant to 43 CFR 4.420-4.439. The authorized officer shall suspend or revoke the land use authorization if the Administrative Law Judge determines that grounds for suspension or revocation exists and that such action is justified.

(3) The authorized officer shall terminate a suspension order when the authorized officer determines that the violation causing such suspension has been rectified.

(d) Upon termination, revocation or cancellation of a land use authorization, the holder shall remove all structures and improvements except those owned by the United States within 60 days of the notice of termination, revocation or cancellation and shall restore the site to its pre-use condition, unless otherwise agreed upon in writing or in the land use authorization. If the holder fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that shall not relieve the holder of liability for the cost of their removal and restoration of the site.